

1 HONORABLE JAMES L. ROBART
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9
10 MICROSOFT CORPORATION,

Plaintiff,

11 v.

12 MOTOROLA, INC., et al.,

13 Defendants.

14
15 MOTOROLA MOBILITY, INC., et al..

16 Plaintiffs,

v.

17 MICROSOFT CORPORATION,

18 Defendant.

No. C10-1823-JLR

DECLARATION OF CHRISTOPHER T.
WION IN SUPPORT OF
MICROSOFT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT

NOTED: Friday, September 9, 2011

19 I, Christopher T. Wion, hereby declare as follows:

20 1. I am an attorney at the law firm of Danielson Harrigan Leyh & Tollefson LLP,
21 counsel for Microsoft Corporation in the above-captioned matter, and have personal
22 knowledge of the facts stated herein.

23 2. Attached hereto as Exhibit 1 is a true and correct copy of the IEEE-SA
24 Standards Board Bylaws, approved by the IEEE-SA Board of Governors December 2009, and
25

DECLARATION OF CHRISTOPHER T. WION
IN SUPPORT OF MICROSOFT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT - I

LAW OFFICES
DANIELSON HARRIGAN LEYH & TOLLEFSON LLP
999 THIRD AVENUE, SUITE 4400
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TEL. (206) 623-1700 FAX. (206) 623-8717

1 previously submitted by Motorola as Ex. 5 to the December 15, 2010 Declaration of Norman
2 H. Beamer.

3 3. Attached hereto as Exhibit 2 are true and correct copies of Letters of Assurances
4 Motorola and its affiliates submitted to the IEEE relating to the 802.11 standard, produced by
5 Motorola in the above-captioned matter.

6 4. Attached hereto as Exhibit 3 is a true and correct copy of the Guidelines for
7 Implementation of the Common Patent Policy for ITU-T/ITU-R/ISO/IEC, dated March 1,
8 2007, that was downloaded from the ITU website (<http://www.itu.int>) at my direction.

9 5. Attached hereto as Exhibit 4 are true and correct copies of various Patent
10 Statements and Licensing Declarations submitted by Motorola to the ITU relating to the H.264
11 standard, produced by Motorola in the above-captioned matter.

12 6. Attached hereto as Exhibit 5 is a true and correct copy of a letter with enclosure
13 from Kirk Dailey, Corporate Vice President of Intellectual Property for Motorola, to Horacio
14 E. Gutierrez, Corporate Vice President and Deputy General Counsel for Microsoft, dated
15 October 21, 2010, previously submitted by Motorola as Ex. 1 to the December 15, 2010
16 Declaration of Norman H. Beamer.

17 7. Attached hereto as Exhibit 6 is a true and correct copy of a letter with enclosure
18 from Kirk Dailey, Corporate Vice President of Intellectual Property for Motorola, to Horacio
19 E. Gutierrez, Corporate Vice President and Deputy General Counsel for Microsoft, dated
20 October 29, 2010, previously submitted by Motorola as Ex. 2 to the December 15, 2010
21 Declaration of Norman H. Beamer

22 8. Attached hereto as Exhibit 7 are true and correct copies of webpages
23 downloaded on August 15, 2011 from the on-line store of Best Buy (<http://www.bestbuy.com>),
24 identifying 194 laptops being offered for sale with the Microsoft Windows 7 Home Premium
25 operating system installed.

DECLARATION OF CHRISTOPHER T. WION
IN SUPPORT OF MICROSOFT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT - 2

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1 9. Attached hereto as Exhibit 8 is a true and correct copy of Motorola Mobility,
2 Inc.'s Memorandum of Points and Authorities In Support of Motion for Restraining Order,
3 dated July 29, 2011, (Dkt. No. 27), submitted in the matter of *Motorola Mobility, Inc. v.*
4 *Microsoft Corporation*, United States District Court for the Northern District of California, San
5 Jose Division, Case No. 11-cv-3136, obtained from the Public Access to Court Electronic
6 Records (PACER) Electronic Court Filing (ECF) website.

7 10. Attached hereto as Exhibit 9 is a true and correct copy of Defendant Motorola,
8 Inc.'s Answer, Affirmative Defenses, and Counterclaims to Wi-LAN, Inc.'s Third Amended
9 Complaint dated September 18, 2009 (Dkt. No. 63), in the matter of *Wi-LAN v. Research in*
10 *Motion Corp.*, et al., United States District Court for the Eastern District of Texas, Case No.
11 2:08-CV-247-TJW, obtained from the PACER ECF website.

12 11. Attached hereto as Exhibit 10 is a true and correct copy of the April 9, 2008
13 Declaration of Brian Blasius, Director of Intellectual Property Outbound Licensing for
14 Motorola Inc.'s Mobile Devices business, filed in the matter of *Research in Motion Limited v.*
15 *Motorola, Inc.*, United States District Court for the Northern District of Texas, Case No. 3:08-
16 cv-0284-G, obtained from the PACER ECF website.

17 12. Attached hereto as Exhibit 11 is a true and correct copy of the Notice of
18 Removal and Counterclaims, dated June 22, 2011 (Dkt. No. 1), in the matter of *Motorola*
19 *Mobility, Inc. v. Microsoft Corporation*, United States District Court for the Northern District
20 of California, San Jose Division, Case No. 11-cv-3136, obtained from the PACER ECF
21 website.

22 13. Attached hereto as Exhibit 12 is a true and correct copy of the IEEE-SA guide
23 titled "Understanding Patent Issues During IEEE Standards Development," downloaded from
24 the IEEE Standards Association website at <http://standards.ieee.org>.

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DECLARATION OF CHRISTOPHER T. WION
IN SUPPORT OF MICROSOFT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT - 3

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14. Attached hereto as Exhibit 13 are true and correct copies of pages from the American Bar Association, Section on Science and Tech. Law, Committee on Technical Standardization, Standards Development Patent Policy Manual (2007).

15. Attached hereto as Exhibit 14 is a true and correct copy of the Amended & Restated Bylaws of Blu-Ray Disc Association (Version 1.5 rev., updated as of July 10, 2008) that was submitted as Ex. A with the Declaration of Eric B. Evans in the matter of *Zoran Corporation v. DTS, Inc.*, U.S. District Court for the Northern District of California, San Jose Division, Case No. 08-cv-4665 JF, obtained from the PACER ECF website.

16. Attached hereto as Exhibit 15 are true and correct copies of webpages downloaded from the website of MPEG LA, LLC (<http://www.mpeglal.com>) on August 11, 2011.

17. Attached hereto as Exhibit 16 is a true and correct copy of MPEG LA's Summary of AVC/H.264 License Terms, obtained from the MPEG LA, LCC website at http://www.mpeglalcc.org/main/programs/avc/Documents/AVC_TermsSummary.pdf.

18. Attached hereto as Exhibit 17 are true and correct copies of webpages downloaded from the Via Licensing Corporation website (<http://www.vialicensing.com>) on August 2, 2011.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 18th day of August, 2011, at Seattle, Washington.



CHRISTOPHER T. WION

**DECLARATION OF CHRISTOPHER T. WION
IN SUPPORT OF MICROSOFT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT - 4**

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CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

**Attorneys for Defendants Motorola Solutions, Inc., Motorola Mobility, Inc., and
General Instrument Corporation**

Philip S. McCune
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Summit Law Group

Steven Pepe
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Linda Bledsoe
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DECLARATION OF CHRISTOPHER T. WION
IN SUPPORT OF MICROSOFT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT - 5

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